App. F. IX-4

1949-50
(CR)

File No. 253-49

Previous References.

Serial Nos. 2

Later References.
CB. 37-50-3
Chs-Sup. 5339/52-53
Law 438-55-(1-4)

GENERAL AND REVENUE SECRETARIAT

Serial Nos. One

Part B for Feb 1950

SUBJECT

Authentication vs. electn. and other
other Amendments

O.M. 9986-9995 | CB 253-49-2. D. 4.2.50

To
The Secretaries to Govt.
The Compiler, Gazette, etc

Police. 3494.

{2588/C.B.}

SUBJECT:- Provision in the Indian Constitution regarding 'CONDUCT OF GOVERNMENT SERVANTS.'

146.(1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

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1) As the law stands at present, Section 8 of the Govt. of Mysore Act 1940 lays down, that (2) All executive action shall be expressed to be taken in the name of the Govt. of H.H. the Maharaja of Mysore ;
(2) Orders and other instruments made and executed in the name of the Govt. of H.H. the Maharaja of Mysore shall be authenticated in such manner as may be specified in rules to be made by the Govt. and the validity of any order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Govt., and
(3) H.H. the Maharaja may make rules for the more convenient transaction of the business of the Government, and for the allocation of the said business among the Chief Minister and the Ministers.

In view of the article inserted in the Constitution of India (quoted above), all executive action should hereafter be expressed to be taken in the name of H.H. the Maharaja of Mysore. (All orders and notifications issued by the Govt. of Madras are expressed in the name of H.E. the Governor-Vide Fort St. George Gazette placed below for reference).

The Under Secy., instructed that forms of detention warrants

warrants adopted in the Govts. of Madras, Bombay, C.P., U.P., may be obtained as specimen in order to see whether they could be adopted.here also.

Dft. letter is put up for consideration.

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2) For consideration...

Art.146(1) of the Draft Constitution would necessitate considerable change in the mode of drafting G.O^{s} in all branches of the Secretariat. It would be desirable to have the position examined in the Legis. Sectt., and a circular issued to all Branches of the Secretariat well in time i.e, before 26/1/1950.

(Intd.) G.V.K.
8/12

Chief Secy)

3) May issue.

4) The C.B. may take action re: the form of the G.Cs after 26/1/1950 and the Council Business Rules, expeditiously.

(Intd.) K.S.
9/12

" EXTRACT."

Submitted

2) A copy of Notfn. No. 9847/CB. 255-49-1 T by 26.1.50 is put up for refce.

3) A draft O. M. on the lines suggested V by the Under Secy. Home is submitted for Consideration.

4) The file may be sent to the Law Deptt.

Serial No.

for examining whether the changes in the form of Govt. proceedings are obligatory and if so, whether the forms suggested are suitable

Chief Secy) 28/1/50

28.1.50.

Law Secy) 30/1

Kind reference is invited to the statement showing the forms adopted by the Provincial Governments as seen from the Provincial Gazettes.

Although there is no uniformity in the forms used, in view of the provisions of Clause (1) of Article 16.6 of the Constitution of India, it seems that the form in use in Madras is the most appropriate and may be adopted here. As already submitted in another connection legally orders will have to issue in the name of the Rajpramukh of Mysore.

31.1.50. Law Secy) 31/1

Chief Secy 31/1

O.M. with the Draft Circular is free of appeal

Yes. Sheet is all right. Minister Chief Minister

H.L.D 2/2/50.

CHIEF SECRETARY 30 JAN 1950 GOVT. OF MYSORE

CHIEF SECRETARY 7430 1 FEB 1950 GOVT. OF MYSORE

Office of the Minister for Law & Labour. No. 5658 Date 16/2/50

Note.—Contn. Sheet 2

6228 Chiefmi 12/1/50

Form of detention orders

File No. 3306/CB of 19 ..

General and Revenue Secretariat

Serial No.

Office of the Chief Minister
No. 6228
Date of Receipt 21/2/50

Issued No. (OM) 9986-9995/CB 253-49-2 dt 4.2.1950. to the Secretaries to Govt. to all the Branches.

B

WD 06820—GPB—25,000—26-7-49

Immediate

No. 9986 - 9995/C.B.253-49-2

OFFICIAL MEMORANDUM.
~~NOTIFICATION~~

The attention of the Secretaries to Government is invited to Notification No.9847/C.B.253-49-1, dated the 26th January 1950.

As will be seen from it, all orders or Instruments made or executed by orders or on behalf of the Government of Mysore will, with effect from the 26th January 1950, be expressed to be made by or by order of His Highness the Maharaja of Mysore. This follows the provision in the Constitution of India which requires under Article 166 (1) read with Article 238 (1) that all executive action of the Government of the State shall be expressed to be taken in the name of the Rajpramukh.

In view of this provision in the Constitution, the form of Government Orders, more particularly those involving action taken under a statute, should be appropriately worded to fit in with the requirements of the new Constitution.

It is therefore suggested that in all orders and Notifications issued hereafter ~~whenever~~ reference is made to Government in orders issued under the name of H.H. the Maharaja should be expressed ~~statute~~ the words, "His Highness the Maharaja

as is done in Notifications, Notices etc.
~~"His Highness the Maharaja is pleased to order~~
issued by Provincial Govts. e.g. as may be seen from Fort. St. George Gazette, Madras or other Gazettes of Provincial Govts.
~~ordered.~~

In exercise of the powers conferred . . . . . .
His Excellency the Governor of Madras makes (is pleased to make) . . . . . .
At the end of a Government Order, ...
the words "By Order" are at present in use. (In view of the provision in the Constitution of India referred to above, (By order of His Excellency the Governor)
appropriate form hereafter would be "By Order of
His Highness the Maharaja".

Ch. Secy. to Govt. of Madras.

Secretaries to Government are requested

to see that the new forms are used in all ~~with immediate effect~~ Notifications and Orders of Govt.

(By order of His Highness the Maharaja,)

31/10/50

CHIEF SECRETARY TO GOVERNMENT.

To
The Secretaries to Government.

Copy to all Branches.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.
GOVERNMENT OF MYSORE.

General and Revenue Secretariat,

No. 9986-9995/G.R.253-49-2. *Dated Bangalore,* ...4th February 1950.

OFFICIAL MEMORANDUM.

The attention of the Secretaries to Government is invited to Notification No.9847/G.R.253-49-1, dated the 26th January 1950.

As will be seen from it, all orders or instruments made or executed by order or on behalf of the Government of Mysore will, with effect from the 26th January 1950, be expressed to be made by or by order of His Highness the Maharaja of Mysore. This follows the provision in the Constitution of India under Article 166 (1) read with Article 535 (1), which requires that all executive action of the Government of the State shall be expressed to be taken in the name of the Rajpramukh.

In view of this provision in the Constitution, the form of Government Orders, more particularly those involving action taken under a statute, should be appropriately worded to fit in with the requirements of the new Constitution.

It is therefore suggested that in all orders and Notifications issued hereafter the name of His Highness the Rajpramukh should be expressed by using the words, "His Highness the Rajpramukh" as given in Notifications, Notices etc., issued by Provincial Governments as taken from Fort St. George Gazette, Madras, or other Gazettes of Provincialgovernments, e.g.

"In exercise of the powers conferred .....
His Excellency the Governor of Bombay (is pleased to make) .....
.....

(By order of His Excellency the Governor)

.....
Chief Secretary to Government of Madras.

At the end of a Government Order, the words "By Order" are at present in use. In view of the provision in the Constitution of India referred to above, the appropriate form hereafter would be "By Order of His Highness the Maharaja".

Secretaries to Government are requested to see that the forms are used in all Notifications and Orders of Government.

By Order of His Highness the Maharaja,

Y. Ramakrishnaiya
UNDER SECRETARY TO GOVERNMENT

General & Revenue Secretariat,
Bangalore,
(Camp) Mysore, Dated the 26th January 195 .

NOTIFICATION

Under clause (c) of Article 166 read with Clause (1) of Article 238 of the Constitution of India, His Highness the Rajpramukh of Mysore has been pleased to make the following rules, namely:-

Rules.

1. All Orders of Instruments made or executed by order or on behalf of the Government of Mysore shall be expressed to be made by or by order of His Highness the Rajpramukh of Mysore.

2. Save in cases where an officer has been specially empowered in that behalf to order or authenticate any order or instrument of the Government of Mysore, every such order or instrument shall be signed by either a Secretary, an Under Secretary or Assistant Secretary to the Government of Mysore and such signature shall be deemed to be the proper authentication of such order or instrument.

26/1/50

Under

The Controller, Mysore Gazette, for publication in the Gazette